IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRIMINAL APPEAL NO.650 SB OF 1995

DATE OF DECISION: MARCH 17, 2007

Balwinder Singh and another

.....Appellants

VERSUS

State of Punjab.

....Respondent

Criminal Revision No.380 of 1996

Balbir Singh

.....Petitioner

VERSUS

State of Punjab and others

....Respondents

CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH

1. **Whether Reporters of local papers may be allowed to see the judgement?**
2. **To be referred to the Reporters or not?**
3. **Whether the judgment should be reported in the Digest?**

PRESENT: Mr. K. S. Ahluwalia, Sr.Advocate with
Mr. J. S. Lalli, Advocate,
for the appellants.

Mr. M. C. Berry, Sr.DAG, Punjab,
for the State.

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RANJIT SINGH, J.

Kamaljit Kaur, wife of Balwinder Singh, appellant, committed suicide on 5.9.1994, a few months after her marriage. FIR under Sections 304B and

498-A IPC was lodged by Balbir Singh, brother of Kawaljit Kaur, against appellant Balwinder Singh, his mother Chhinder Kaur and his brother Angrez Singh with the allegation of demand of dowry, giving account in detail, which led to suicide by Kawaljit Kaur.

As per the allegations made in the FIR, Kawaljit Kaur, was married to Balwinder Singh, appellant, on 6.2.1994. Balwinder Singh was then serving in Punjab Armed Police and was posted at Jalandhar. Though dowry, as could be afforded, was given, yet Balwinder Singh did not feel satisfied with the dowry and soon after the marriage asked his wife Kawaljit Kaur (since deceased) to bring cash. Kawaljit Kaur was reluctant to talk about it her brother as her father was in States. Balwinder Singh, as such, used to beat her on this account. Gurbachan Singh, Sarpanch, of the village had intervened to settle the dispute but after some days, Balwinder Singh again allegedly started mal-treating his wife and forced her to bring a cash of Rs.20,000/- from her parents. Complainant Balbir Singh had then paid Rs.10,000/- to his sister in the presence of his uncle Mohinder Singh and thereafter she was sent back to her matrimonial house. The mal-treatment still continued, forcing deceased Kamaljit Kaur to return to her parental house.

On 3.9.1994, appellant Balwinder Singh visited his in-laws and raised a demand of Rs.20,000/- more. Balbir Singh attempted to make him understand that he was not in a position to fulfill the demand and even then promised to do so after harvesting paddy crop. Appellant Balwinder Singh, however, was not satisfied and left the place, leaving his wife at her parents house.

On 4.9.1994, Paramjit, younger brother of Kamaljit Kaur,

accompanied her to leave her at her in-laws house. As soon as they reached the house, Chhinder Kaur, appellant, remarked that ghost had come to their house and that they would do away with her. Paramjit Singh had then gone to the house of one Mohinder Singh, his uncle (husband of sister of his mother) in the same village, who was mediator in this marriage. Mohinder Singh accompanied Paramjit Singh to the house of the appellants and on reaching there, noticed them abusing Kamaljit Kaur. The appellants were also heard saying that it is better if she would take poison and die as she had not been able to arrange cash. Counseling by Mohinder Singh and Paramjit Singh did not have any effect whereupon Paramjit Singh returned to his village. On the same day at about 7.00 P.M., Shisha Singh son of Puran Singh from the village of the appellants came to the house of Balbir Singh and informed him that his sister, Kamaljit Kaur, had consumed poison. Balbir Singh, accompanied by some respectables of his village, rushed to the village of the appellants. All of them then proceeded to the hospital, when they learnt that Kamaljit Kaur was taken to hospital. On reaching the hospital, they came to learn that Kamaljit Kaur had died. FIR accordingly was lodged by Balbir Singh, which led to trial of Balwinder Singh, his mother Chhinder Kaur and his brother Angrez Singh. The trial Court acquitted Angrez Singh but found Balwinder Singh and Chhinder Kaur guilty of the charge. They were sentenced to undergo 10 years and 7 years RI respectively under Section 304B IPC with fine of Rs.2,000/- and in default of payment of fine were further directed to undergo RI for two months. In addition, they were sentenced to suffer RI for 1 year with fine of Rs.1,000/- and one month further RI in

default of payment of fine under Section 498A IPC. Both the sentences were ordered to run concurrently.

Mr.K.S.Ahluwalia, learned senior counsel appearing for the appellants, at the out-set, submits that Balwinder Singh has undergone complete sentence and has since been released on 27.8.1999. Chhinder Kaur, appellant, however, was released on bail on 13.3.1996. It is also pointed out that Chhinder Kaur, appellant, was on bail during trial as she was found innocent during investigation and shown in Column No.2 by the police. The counsel would further points out that the incident is of the year 1994 and at that time she was 71 years of age and by now her age is approximately 85 years. He would also point out that her case was almost identical to that of Angrez Singh. Angrez Singh, brother of appellant Balwinder Singh, was acquitted mainly on the ground that he was found to be living at his in-laws house for 9 to 10 years prior to the incident. It is also on record that appellant, Chhinder Kaur, was staying with her daughter for about 3 to 4 years prior to the incident. However, this aspect of the matter could not be sufficiently established by the defence. Finding that Chhinder Kaur, appellant, had passed taunting remarks against her daughter-in-law, the Court had found her guilty of the offence. The counsel also points out that there is no allegation of demand of dowry by mother-in-law, Chhinder Kaur. Accordingly, the counsel has prayed that leniency be shown to appellant Chhinder Kaur considering her old age and infirm health.

It is not a matter of serious dispute that the main allegations in the FIR are against appellant Balwinder Singh,

husband of deceased Kamaljit Kaur, who has undergone complete sentence awarded to him. Considering the old age and infirm health of appellant, Chhinder Kaur, it appears harsh to ask her to undergo the sentence at this stage. Humane considerations are also required to be born in mind while deciding the sentence. Some compassion is required to be shown to the case of appellant, Chhinder Kaur.

Accordingly, while up-holding the conviction of both the appellants, the sentence of appellant, Chhinder Kaur is reduced to the period already undergone. The sentence of fine shall, however, be maintained.

With this modification in the sentence of appellant, Chhinder Kaur, the appeal is dismissed.

No case for enhancing the sentence of appellants Balwinder Singh and Chhinder Kaur or convicting Angrez Singh (since acquitted) or enhancing the compensation, as awarded, as prayed in the revision petition, is made out.

Hence, the Criminal Revision is also dismissed.

March 17, 2007 **(RANJIT SINGH)**
khurmi **JUDGE**